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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2015-0122; Notice 1]

Van Hool N.V., Receipt of Petition for Decision of
Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA),
Department of Transportation (DOT).

ACTION: Receipt of Petition.

SUMMARY: Van Hool N.V. (Van Hool), has determined that certain model year (MY) 2015-2016 Van Hool Double Deck buses do not fully comply with paragraph S5.3.4 of Federal Motor Vehicle Safety Standard (FMVSS) No. 121, *Air Brake Systems*. Van Hool filed a report dated November 6, 2015, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Van Hool then petitioned NHTSA under 49 CFR part 556 requesting a decision that the subject noncompliance is inconsequential to motor vehicle safety.

DATES: The closing date for comments on the petition is **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- Mail: Send comments by mail addressed to: U.S.
Department of Transportation, Docket Operations, M-30,
West Building Ground Floor, Room W12-140, 1200 New
Jersey Avenue, SE, Washington, DC 20590.
- Hand Deliver: Deliver comments by hand to: U.S.
Department of Transportation, Docket Operations, M-30,
West Building Ground Floor, Room W12-140, 1200 New
Jersey Avenue, SE, Washington, DC 20590. The Docket
Section is open on weekdays from 10 am to 5 pm except
Federal Holidays.
- Electronically: Submit comments electronically by:
logging onto the Federal Docket Management System
(FDMS) website at <http://www.regulations.gov/>. Follow
the online instructions for submitting comments.
Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to

<http://www.regulations.gov>, including any personal information provided.

The petition, supporting materials, and all comments received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible.

When the petition is granted or denied, notice of the decision will also be published in the Federal Register pursuant to the authority indicated at the end of this notice.

All documents submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets. The docket ID number for this petition is shown at the heading of this notice.

DOT's complete Privacy Act Statement is available for review in the Federal Register published on April 11, 2000, (65 FR 19477-78).

SUPPLEMENTARY INFORMATION:

I. Overview: Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Van Hool submitted a petition for an exemption from the notification and remedy

requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of Van Hool's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles Involved: Affected are approximately 48 MY 2015-2016 Van Hool Double Deck buses that were manufactured between December 13, 2014 and October 22, 2015.

III. Noncompliance: Van Hool explains that the noncompliance is that brake release times slightly exceed the requirements as specified in paragraph S5.3.4 of FMVSS No. 121.

IV. Rule Text: Paragraph S5.3.4 of FMVSS No. 121 requires in pertinent part:

S5.3.4 *Brake Release Time*. Each service brake system shall meet the requirements of S5.3.1 (a) through (b)...

V. Summary of Van Hool's Petition: Van Hool described the subject noncompliance and stated its belief that the noncompliance is inconsequential to motor vehicle safety based on the following reasoning:

- (1) Based on the results of testing that Van Hool conducted on some of the affected buses, it determined that the brake release times, on average, exceeded the FMVSS No. 121 requirement by only 0.03 of a second on the front axle, by

0.05 of a second on the tag axle, and by 0.10 of a second on the drive axle.

- (2) Van Hool determined that this noncompliance may be due to the change of fitting for this type of vehicle. These new fittings for the Double Deck buses were introduced in production in September 2014. The classic brass couplings were replaced with push-in tube connections made of composite material to remedy certain complaints of air loss. The effect of minimal loss of internal air flow was misjudged, which caused the brake release time to exceed the requirements.

However, Van Hool believes that there is no safety issue, nor unnecessary brake drag during acceleration after brake release due to the reaction time of the driver (moving foot from brake pedal to throttle pedal) and the reaction time of the complete driveline being longer than the brake release time.

- (3) Van Hool stated its belief that because the brake actuation time on the subject buses fulfilled the requirements as specified in paragraph S5.3.3 of FMVSS No. 121, that the noncompliance has no effect on the brake performance. Van Hool found that its testing showed a margin on the required brake actuation time of 11% for the front axle, 20% for the drive axle and 17% for the tag axle. For this reason Van

Hool is convinced that the noncompliance will not show significant differences in dynamic brake test and will have no influence on the motor vehicle safety. Thus, Van Hool did not repeat the dynamic brake test. Also, the dynamic brake test was not repeated on any of the subject vehicles because Van Hool's dynamic brake test showed a minimum 25% margin for the brake stopping distance requirement.

- (4) Van Hool made reference to previous inconsequential noncompliance petitions that it believes are similar to its petition and that were granted by NHTSA.

Van Hool additionally informed NHTSA that the noncompliance has been corrected on vehicles in subsequent production and that all future vehicles will be in full compliance with FMVSS No. 121.

In summation, Van Hool believes that the described noncompliances are inconsequential to motor vehicle safety, and that its petition, to exempt Van Hool from providing recall notification of noncompliances as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA

to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject buses that Van Hool no longer controlled at the time it determined that the noncompliance existed.

However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant buses under their control after Van Hool notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Jeffrey M. Giuseppe, Director,
Office of Vehicle Safety Compliance.

Billing Code: 4910-59-P

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